

§ 681.1

45 CFR Ch. VI (10–1–10 Edition)

681.44 Is there a right to administrative off-set?

681.45 What happens to collections?

681.46 What if the investigation indicates criminal misconduct?

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PURPOSE, DEFINITIONS, AND BASIS FOR LIABILITY

§ 681.1 Purpose.

This part implements the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801–3812 (“PFCRA”). PFCRA provides NSF, and other Federal agencies, with an administrative remedy to impose civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted or presented, false, fictitious, or fraudulent claims or written statements to NSF. PFCRA also provides due process protections to all persons who are subject to administrative proceedings under this part.

§ 681.2 Definitions.

For the purposes of this part—

ALJ means an Administrative Law Judge in the authority appointed pursuant to section 3105 of title 5 or detailed to the authority pursuant to section 3344 of title 5.

Authority means the National Science Foundation.

Authority head means the Director of the National Science Foundation or the Director’s designee.

Benefit is intended to cover anything of value, including but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Claim is defined in section 3801(a)(3) of title 31 of the United States Code.

Complaint means the administrative complaint served by the reviewing official on the defendant under § 681.8.

Defendant means any person alleged in a complaint under § 681.7 to be liable for a civil penalty or assessment pursuant to PFCRA.

Government means the United States Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by § 681.33, and includes a revised initial decision

issued following a remand or a motion for reconsideration.

Investigating official means the NSF Inspector General or an employee of the Office of Inspector General designated by the Inspector General.

Knows or has reason to know is defined in section 3801(a)(5) of title 31 of the United States Code.

Makes shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, making or made shall likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, or private organization, and includes the plural of that term.

Representative means an attorney who is in good standing of the bar of any State, Territory, or possession of the United States, or of the District of Columbia, or the Commonwealth of Puerto Rico, or any other individual designated in writing by the defendant.

Reviewing official means the General Counsel of NSF or the General Counsel’s designee.

Statement is defined in section 3801(a)(9) of title 5 of the United States Code.

§ 681.3 What is the basis for the imposition of civil penalties and assessments?

(a) *Claims*. (1) Any person shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each claim if that person makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed.